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August 21, 2008

Via 212-805-7912

Hon John G. Koeltl  
United States Federal Courthouse  
500 Pearl St.  
Courtroom 1030  
New York, N.Y. 10007-1312

Re: Sherene McLeary v. Ryder Truck Rental and  
Vancy W. Perry  
Index No.: 08-CV-5225  
Date of Loss: 12/21/07  
Our Ref. No.: JBH 16663

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 08/22/08

Dear Honorable Koeltl:

As you know our office represents the defendants in connection with the above referenced matter. As you also know an initial conference has been scheduled for August 25, 2008.

In attempting to comply with your order regarding the initial conference we have contacted the plaintiff's attorneys, Michael T. Ridge, Esq., located at 910 Grand Concourse, Suite 1D, Bronx, New York 10451 with a phone number of (718) 590-5400 to discuss a proposed discovery schedule and Rule 26 disclosures. We were advised that they are no longer the plaintiff's counsel and that Paul Ailouny & Associates located at 320 Old Country Rd., Suite 205, Garden City, N.Y. 11530 has taken over the matter and that the file was transferred to them in April 2008.

(1) The Conference will proceed.  
(2) There has been no substitution of counsel for the  
plaintiff and plaintiff's counsel of record is expected to appear.  
(3) If there is no appearance for the plaintiff, defense counsel  
should move by order & show cause to appoint the court for lack  
of prosecution. The Court would not do so on the basis of a letter - see below  
8/21/08 - JBH

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We have attempted to contact Paul Ailouny & Associates (via directory assistance and the NY Lawyers Diary and Manual, 2008 edition) to no avail. We then contacted Michael T. Ridge's office again to advise that we could not contact Mr. Ailouny's office and that the court had advised us that since a consent to change attorneys has not been So Ordered by the court that Mr. Ridge's office is still considered the attorneys of record and that they must appear at the initial conference. Mr. Ridge's office advised that they will not be appearing because the file has been transferred.

At this time our office is at a loss as to how to proceed from here. We can not in good faith serve our Rule 26 disclosures on Mr. Ridge's office, as they claim they are not the attorneys of record, and we can not serve the disclosures on Mr. Ailouny's office as we can not reach them. Also, with the initial conference set for August 25, 2008, is our office required to appear knowing full well that there will not be an attorney present representing the plaintiff?

Based on all the above, we would submit that the plaintiff's case has been abandoned and the matter should be dismissed with prejudice.

Please advise as to what actions the court would like our office to take at this time.

Sincerely,

NEWMAN FITCH ALTHEIM MYERS, P.C.

MATTHEW MARINO

MM/mc